

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 3:07-cr-023

-vs- Chief Magistrate Judge Michael R. Merz

MEAGAN M. HEBERT,

Defendant.

DECISION AND ORDER GRANTING MOTION TO SUPPRESS

This case is before the Court on Defendant's Motion to Suppress (Doc. No. 14). Counsel for both parties have agreed that the relevant facts are undisputed.

The Information charges Defendant with one count of possession of marijuana in violation of 21 U.S.C. § 844. It is undisputed that the marijuana in question was found in plain view inside the residence of Airman First Class Brooke A. Decoux at Wright Patterson Air Force Base. Defendant was an invited guest at that residence, but was found by security forces asleep outside the residence. The officers entered the residence to conduct a "health and welfare" check to see if the occupant was at home and might need assistance. There is no claim that the officers obtained Ms. Hebert's consent to enter and likewise no claim she does not have standing to raise objection to their entry insofar as the instant Motion is concerned.

The facts as stipulated by the parties do not come within either the exigent circumstances or protective sweep exceptions to the search warrant requirement of the Fourth Amendment. The seized marijuana (and any observations if it which might substitute for the drug itself) are suppressed.

Counsel for the United States shall promptly advise the Court if the United States desires to proceed to trial in light of this Decision.

September 29, 2007.

s/ **Michael R. Merz**
Chief United States Magistrate Judge